

### **REMARKS**

This is a full and timely response to the outstanding Office Action mailed on October 20, 2004 (Paper No. 20041015). Claims 19-67 are canceled and claims 68-78 are newly added. Accordingly, claims 1-18 and 68-78 are pending in the present application. Reconsideration and allowance of the Application and presently pending claims are respectfully requested in view of the following remarks. Applicants should not be presumed to agree with any statements made by the Examiner regarding the rejections and objections made in the Office Action unless otherwise specifically indicated by the Applicants.

#### **I. Examiner's Interview**

On December 15, 2004, Examiner Matthew Demicco along with Examiner Chris Grant spoke with Applicants' attorney, Minh Nguyen. First, Applicants express sincere appreciation for the time and consideration spent during the discussion of the Office Action, Application and the cited references. The discussion focused on the rejection of the claims and the Examiners' arguments over the claims based on U.S. Patent No. 5,850,218 to *LaJoie, et al.* in view of "The complete Idiot's Guide to Windows 95, 2<sup>nd</sup> ed." by *McFedries*. Applicants wanted to understand the Examiners' arguments and requested a suggestion from the Examiners to expedite the allowance of the claims. Examiners suggested amending the claims to include the feature of disabling the browse-by menu. Applicants appreciate the Examiners' suggestion. However, Applicants have amended the claims to include other features that Applicants believe to be patentable. It appears that the amendments made in the current response are favorable for allowance depending on another closer look at the cited references in the Office Action and possibly another search by the Examiner.

#### **II. Response to Arguments**

Applicants should not be presumed to agree with any statements made by the Examiner in the "Response to Arguments" Section on page 2-4 of the Office Action unless otherwise specifically indicated by the Applicants.

### III. Claim Rejections Under 35 U.S.C. §103

Claims 1-18, 50-51, and 64-67 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,850,218 to *LaJoie, et al.* as cited by the Applicants in view of “The complete Idiot’s Guide to Windows 95, 2<sup>nd</sup> ed.” by *McFedries*. Claims 19-21 stand rejected under 35 U.S.C. 103(as) as being unpatentable over *LaJoie* in view of *McFedries* and further in view of U.S. Patent No. 5,808,608 to *Young, et al.*; claims 53-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *LaJoie*. Claim 57 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *LaJoie* in view of U.S. Patent No. 6,757,909 to *Maruo, et al.* Claims 58-59 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *LaJoie* in view of U.S. Patent No. 6,681,395 to *Nishi*.

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the prior art reference must suggest all features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

#### A. Claim 1

Claim 1, as amended, recites:

1. A television set-top terminal (STT) for enabling a user to navigate to an individual television service, said STT coupled to a programmable television services server device, said STT comprising:
  - memory for storing data;
  - an interactive program guide contained in said memory for displaying program information received by said STT from said server device, said program information corresponding to a plurality of current and future programs;
  - a plurality of guide arrangements corresponding to respective display-orderings of the program information, each guide arrangement ordering displayed program information based on at least one program parameter, the ordering of the program information in each guide arrangement being different than the other guide arrangements;
  - a processor configured to display simultaneously in each guide arrangement only a respective portion of the corresponding ordered program information;
  - configuration information contained in said memory, said configuration information comprising:
    - a plurality of respective initial guide arrangements corresponding to the plurality of guide arrangements;

a selection indication that denotes one of said plurality of initial guide arrangements as a selected initial guide arrangement; and  
***an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection;***

wherein the processor is further configured to cause said STT to initially display said program information according to said selected initial guide arrangement and said initial respective portion of the corresponding ordered program information, said processor responsive to a first user input corresponding to an initiation of a display session of said interactive program guide and said configuration information.

(Emphasis Added)

- i. *LaJoie* does not disclose or suggest “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection,” as recited in claim 1

As an initial matter, the Office Action admits that *LaJoie* does not disclose “the configuration information [comprising] a selection indication that denotes one of the guide arrangements as a selected initial guide arrangement.” (Office Action, Paper No/Mail Date 20041015, page 5). In this regard, the Office Action uses *McFedries* to remedy *LaJoie*. Applicants disagree that *McFedries* is proper cited art as discussed in the previous response mailed on June 14, 2004. In addition, Applicants respectfully submit that *McFedries* does not disclose or suggest the above-quoted limitation. However, in order to expedite the allowance of the claims, Applicants have amended the claims to include the limitation of “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection,” as recited in claim 1.

Applicants respectfully submit that not only does *LaJoie* not disclose “the configuration information [comprising] a selection indication that denotes one of the guide arrangements as a selected initial guide arrangement,” but also the limitation of the configuration information comprising “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection,” as recited in claim 1.

- ii. *McFedries* does not disclose or suggest “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection,” as recited in claim 1

Applicants respectfully submit that *McFedries* does not disclose or suggest “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement being configured according to a user selection,” as recited in claim 1. In fact, *McFedries* is directed to using Windows 95, an operating system for personal computers. The cited portion of *McFedries* is directed to using a Windows Explorer application, whereas claim 1 is directed to television set-top terminals (STTs) configured to provide television program guides, and to related methods. *McFedries* initial folder view apparently consists of a stored configured template comprising *McFedries* user-selected properties of objects (i.e., files and directories) that the user wishes to display upon initiating the *McFedries* initial folder view. The *McFedries* user-selected properties pertain to what type of information is displayed upon initiating the *McFedries* initial folder view but not to selections on how to order the displayed objects in the initial folder view. Thus, the *McFedries* initial folder view is not configured by a user on how to order the displayed objects. Furthermore, *McFedries* does not disclose that a user can configure a *McFedries* initial folder view to exclusively display a *McFedries* user-selected portion of the *McFedries* file objects contained in the corresponding folder.

Consequently, *LaJoie, et al.* in view of *McFedries* apparently does not teach, disclose, or suggest the feature of “an initial respective portion of the corresponding ordered program information in said selected initial guide arrangement, said initial respective portion according to a user selection”, as recited in amended claim 1. Thus, a *prima facie* case of obviousness is not established based on *LaJoie, et al.* in view of *McFedries*. Consequently, for at least this reason, among others, Applicants respectfully request that claim 1 be allowed and the rejection be withdrawn

iii. Reasons for *McFedries* Being Non-Analogous Art

*McFedries* apparently discloses a “file allocation table” that facilitates storage of the objects in the folder in a common physical and contiguous location of storage and facilitates retrieval of the objects at once. That is, objects in a folder correspond to a directory in Windows that are stored contiguously. Furthermore, the attributes of each object are stored with each respective object.

On the other hand, an IPG database as discussed in the current application extends multiple levels of relationships among objects and retrieval of objects is intricate as it often requires non-linear traversals through the database. Each level of relationship extends one of a multitude of navigational courses. Consequently, objects in an IPG database cannot be retrieved contiguously from their repository for each multiple orderings of program information. Besides, one guide arrangement may require more than one direction of ordering of program information to populate the guide arrangement. Thus, retrieval of objects in an IPG database requires non-linear searching and navigation through non-contiguous physical locations of memory.

It should be noted that objects in a *McFedries* file system are retrieved via a linear access operation, known as sequential indexing, and no search operation is required. Retrieval of objects in an IPG database, on the other hand, requires non-linear search operations. Further, a first object can be displayed with a first set of objects in a first guide arrangement at a first time and because the objects in the IPG database are continuously changing through the course of time, the same first object can be displayed with a second set of objects different than the first set of objects at a second time. On the other hand, this is not ordinarily possible in a displayed folder.

*McFedries* file system is not trivial to combine with *LaJoie* due to the continuous changes of objects in an IPG database with the progression of time, wherein significant portions of the objects in the database are discarded and significant portions of arriving objects are added (and not necessarily replaced since they vary in size). Consequently, Applicants respectfully submit that *McFedries* is not proper cited art. Consequently, for at least this reason, among others, Applicants respectfully request that claim 1 be allowed and the rejection be withdrawn.

B. Depended Claims 2-18

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-18 are allowable as a matter of law for at least the reason that dependent claims 2-18 contain all features and elements of their respective independent base claims. *See, e.g., In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to dependent claims 2-18 should be withdrawn for at least this reason, among others.

C. Dependent Claims 19-21, 50-51, 53-55, 57-59, and 64-67

Claims 19-21, 50-51, 53-55, 57-59, and 64-67 are canceled without prejudice, waiver, or disclaimer. Therefore, rejections related to any of claims 19-21, 50-51, 53-55, 57, 58-59, and 64-67 are rendered moot, and Applicants should not be presumed to agree with any statements made by the Examiner regarding any of claims 19-21, 50-51, 53-55, 57, 58-59, and 64-67 unless otherwise specifically indicated by Applicants.

IV. Claim Rejections Under 35 U.S.C. §102

Claims 49, 52, 56, and 60-63 stand rejected under 35 U.S.C. §102(b) as being anticipated by *LaJoie, et al.*

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

Claims 49, 52, 56, and 60-63 are canceled without prejudice, waiver, or disclaimer. Therefore, rejections related to any of claims 49, 52, 56, and 60-63 are rendered moot, and Applicants should not be presumed to agree with any statements made by the Examiner regarding any of claims 49, 52, 56, and 60-63 unless otherwise specifically indicated by Applicants.

V. Newly Added Claims 68-78

Claim 68 recites:

68. A television set-top terminal (STT) for enabling a user to navigate to an individual television service, said STT coupled to a programmable television services server device, said STT comprising:

memory for storing data;

an interactive program guide contained in said memory for displaying program information received by said STT from said server device, said program information corresponding to a plurality of current and future programs;

a plurality of guide arrangements corresponding to respective display-orderings of the program information, each guide arrangement ordering displayed program information based on at least one program parameter, the ordering of the program information in each guide arrangement being different than the other guide arrangements;

configuration information contained in said memory, said configuration information comprising a plurality of respective initial guide arrangements corresponding to the plurality of guide arrangements; and

***a processor configured to cause said STT to initially provide a user option to select one of said plurality of initial guide arrangements, said processor responsive to a first user input corresponding to an initiation of a display session of said interactive program guide,***

***wherein processor further configured to receive a second input corresponding to a user-selected initial guide arrangement until enabling user navigation in the initiated display session of said interactive program guide.***

(Emphasis Added)

Claims 68-78 have been newly added. The newly added claims 68-78 are adequately supported by the specification. Exemplary embodiments of the subject matter of claims 68-78 are shown in Figs. 12-14. Consideration of new claims 68-78 is respectfully requested. The references cited by the Examiner do not disclose, teach, or suggest any of the newly added claims 68-78.

Claims 68-78 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “a processor configured to cause said STT to initially provide a user option to select one of said plurality of initial guide arrangements, said processor responsive to a first user input corresponding to an initiation of a display session of said interactive program guide, wherein processor further configured to receive a second input corresponding to a user-selected

initial guide arrangement until enabling user navigation in the initiated display session of said interactive program guide.”

#### VI. Official Notices in the Office Action

The Examiner has taken Official Notices in the Office Action “that it is well known in the art that an EPG may receive program data for only a certain number of hours/days/weeks in the future.”

According to MPEP 2144.03, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." MPEP 2144.03 also states that "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." Accordingly, Applicants respectfully traverse the above conclusions of Official Notice and submit that the subject matter noted above should not be considered well known because the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support the conclusions. Accordingly, Applicants submit that it has not been shown that the material asserted to be well known is capable of instant and unquestionable demonstration as being well-known.

#### VII. Finding of Inherency in the Office Action

The Examiner has stated on page 20 of the Office Action that “[i]t is inherent that when instantiated, the guide enter[s] one of the modes that it is capable of operating in.” The Examiner has also stated on page 21 of the Office Action that “[i]t is inherent that in order to display the program guide in response to a user’s request, the STT must retrieve the configuration and program guide data and construct the guide for output to the television.” It is well established that “[t]o establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of



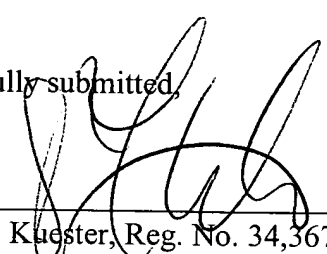
circumstances is not sufficient." *In Re Anthony J. Robertson*, 98-1270 (Fed. Cir. 1999).

Accordingly, Applicants respectfully submit that the subject matter stated to be inherent in the Office Action is not "necessarily" present as stated.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-18 and 68-78 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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